

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TERRY GODDARD  
ATTORNEY GENERAL

October 24, 2007

The Honorable Andrew Thomas  
Maricopa County Attorney  
301 West Jefferson, Suite 800  
Phoenix, Arizona 85003

Dear County Attorney Thomas:

I commend you for your decisive and appropriate action in halting the investigation of the *Phoenix New Times* last Friday. For the reasons you described at your press conference as the basis for dropping the *New Times* case, your investigation of the Attorney General's Office should be transferred immediately to another investigative agency which can complete the investigation in an atmosphere free of political overtones.

I am confident that no improprieties were committed by anyone in my Office in connection with the Petersen matter and have always welcomed a full and fair investigation into the facts. But the conduct of your investigation over the past six months has made it more and more apparent that it is politically driven and seriously overreaching. Let me be clear: I am not asking for the investigation to be terminated, only that it be resolved fairly and without the taint of politics.

On April 12 of this year, Sheriff Arpaio held a press conference to announce that he was beginning an investigation of the Office of the Arizona Attorney General. The Sheriff explained the investigation as follows: "In January of this year, information and an audio tape came to the attention of [the Sheriff's] office indicating the possibility of an illegal financial transaction between the then state treasurer David Petersen and the Attorney General's Office. Concerns are that the money was supposedly to be paid in exchange for leniency for Petersen who was facing felony charges for theft, conflict of interest and other crimes."

It is, of course, unusual for any responsible law enforcement official to call a press conference to announce the start of a criminal investigation. The Sheriff took another unprecedented step by distributing to every reporter in the room a disk containing the audio recording and a transcript of a private conversation among three members of the Petersen family (David Petersen, his wife, Patti, and their son, Paul, according to the title of the transcript). Anybody who has listened to that recording will agree that nothing was said by any of the Petersens about bribery.



I was stunned at the time—and I still am—that the Sheriff or any other law enforcement officer would announce the beginning of a criminal investigation at a press conference or would hand out copies of his key evidence. The public blast of the Sheriff's press conference certainly sounded like the opening salvo in a political witch hunt. Unfortunately, subsequent events have reinforced that initial impression.

On August 16, Sheriff Arpaio issued a press release, "Sheriff demands cooperation from attorney general's office." That release was not reported by any of the press, so the Sheriff issued the exact same release a second time, on August 22. Five days later, you and the Sheriff held a press conference to accuse the Attorney General's Office of "stonewalling." Mr. Lotstein of your office joined the drumbeat of accusatory public statements by writing a letter to *The Arizona Republic*, published on September 8, 2007. On September 27, the Sheriff issued yet another press release, a highly-inaccurate pronouncement entitled, "Court rejects attorney general's request for gag order." In that release you are quoted as saying, "We are pleased the walls are finally starting to come down and investigators can get to the task at hand," implying that the Attorney General's Office had not then produced documents or witnesses. As you know, such an implication is utterly false.

The flow of documents to Sheriff's investigators began four months ago, on June 22. At a court hearing on October 9, representatives of the County Attorney's office and the Sheriff's office admitted that they had reviewed all of the 45,000 pages of documents that had been produced up to that time. In the past two weeks, additional documents have been produced, bringing the total close to 51,000 pages. Investigators have asked to interview only one individual in this Office and were given unfettered access to that person.

It is preposterous for you to complain of a lack of cooperation or accuse the Attorney General's Office of "stonewalling." It is even more offensive for you and the Sheriff to trumpet those accusations in press releases. If there were any doubt that the entire investigation was politically motivated, those press releases blew away all pretext.

Most recently, an article published Sunday in the *East Valley Tribune* ("Thomas uses private lawyers on opponents") reported that private attorney Dennis Wilenchik "submitted a pair of bills in August and September for work relating to the state attorney general's office, totaling nearly \$14,000." The *Tribune* further reported:

"The legal and political controversy between Thomas, Arpaio and Goddard has escalated in recent months, and Wilenchik has been at the center of the dustup. The county attorney and sheriff have been investigating the attorney general in a criminal probe to determine whether Goddard took illegal payments from former State Treasurer David Petersen, accusations that Goddard says are baseless and politically motivated. In 2002, Thomas, a Republican, ran unsuccessfully for the state attorney general's office against Goddard, a Democrat. Thomas is up for re-election as county attorney next year."

Your office has made burdensome, irrelevant and duplicative investigative demands upon the Attorney General's Office. To date, your office and the Sheriff have served five subpoenas and six public records requests. Many of those demands appear to be intended only to keep the investigation going indefinitely for your political benefit and do not appear intended to produce information useful to the investigation.



For example, your investigative and public records requests have included, among many others, the following irrelevant and burdensome demands:

Every request for independent legal counsel made by any state agency or department, county, city, town, or school district from January 1, 2003 to October 5, 2007, and every verbal or written response to such request.

All public records requests made to any public agency on any topic whatsoever by anybody at the Attorney General's Office from January 1, 2003 to October 5, 2007.

All electronic correspondence (e-mail) on a wide-ranging variety of subjects, including everything relating to the Collection Enforcement Revolving Fund, without any limitation whatsoever as to date.


Your prolonged investigation is adversely affecting law enforcement throughout the State of Arizona. The relationship between prosecutors in this Office and investigators in the Sheriff's office has been disrupted. Cases have necessarily been reassigned to other prosecutors around the state. The costs to the public have been extraordinary. Unduly protracting the investigation also takes a toll on the dedicated men and women in the Attorney General's Office.

At your press conference last Friday, you said that you hired Mr. Wilenchik for the *New Times* case because "the *New Times* has not been, let's say, a fan of mine." Your strained relationship with the *New Times* pales in comparison to the political undercurrents of your investigation of my Office. As the *Tribune* pointed out, I defeated you in the general election for Attorney General in 2002; you are up for re-election next year; and there is a growing public perception that your investigation is an unwholesome, political "dustup" between you and me. The *Tribune's* revelation of Mr. Wilenchik's role in this investigation further taints the case. A *Tribune* editorial yesterday noted Wilenchik's involvement and stated, "Wilenchik's handling of these matters has eroded public trust in the county attorney's office and jeopardized its standing with the state's entire legal system."

I request that you recognize that this investigation suffers from the same excessive and politically-driven approach that prompted your dismissal of the *New Times* case, and that you transfer it immediately to another law enforcement agency.

I call on you to restore public confidence in the integrity of the government, particularly the all-important integrity of law enforcement.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Goddard", with a stylized flourish at the end.

Terry Goddard  
Arizona Attorney General